

In the Matter Of:

In Re: LTL Management LLC Bankruptcy

JAMES MURDICA

May 30, 2023




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<p>1 CONFIDENTIAL</p> <p>2 UNITED STATES BANKRUPTCY COURT</p> <p>3 DISTRICT OF NEW JERSEY</p> <p>4 CASE NO. 23-12825 (MBK)</p> <p>5 CHAPTER 11</p> <p>6 -----</p> <p>7 IN RE:</p> <p>8 LTL MANAGEMENT LLC BANKRUPTCY,</p> <p>9 Debtor.</p> <p>10 -----</p> <p>11</p> <p>12 ** CONFIDENTIAL **</p> <p>13</p> <p>14 REMOTE VIDEOTAPED DEPOSITION OF</p> <p>15 JAMES MURDICA</p> <p>16</p> <p>17</p> <p>18</p> <p>19 Tuesday, May 30, 2023</p> <p>20 9:30 a.m. (EDT)</p> <p>21</p> <p>22</p> <p>23 Reported By:</p> <p>24 Joan Ferrara, RMR, FCRR</p> <p>25 Job No. 2023-898651</p>	<p>1 CONFIDENTIAL</p> <p>2 REMOTE APPEARANCES:</p> <p>3</p> <p>4 ON BEHALF OF THE COMMITTEE:</p> <p>5 BROWN RUDNICK</p> <p>6 BY: MICHAEL WINOGRAD, ESQ.</p> <p>7 SUSAN SIEGER-GRIMM, ESQ.</p> <p>8 CAMERON MOXLEY</p> <p>9</p> <p>10</p> <p>11 ON BEHALF OF DEBTOR LTL MANAGEMENT:</p> <p>12 JONES DAY</p> <p>13 BY: TIMOTHY M. VILLARI, ESQ.</p> <p>14 DAVID S. TORBORG</p> <p>15</p> <p>16</p> <p>17 ON BEHALF OF THE AD HOC COMMITTEE OF STATES</p> <p>18 HOLDING CONSUMER PROTECTION CLAIMS:</p> <p>19 WOMBLE BOND DICKINSON (US) LLP</p> <p>20 BY: LISA TANCREDI, ESQ.</p> <p>21</p> <p>22</p> <p>23 ON BEHALF OF PAUL CROUCH:</p> <p>24 RUCKDESCHER LAW FIRM, LLC</p> <p>25 BY: JONATHAN RUCKDESCHER, ESQ.</p>
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<p>1 CONFIDENTIAL</p> <p>2</p> <p>3</p> <p>4 May 30, 2023</p> <p>5 9:30 a.m. (EDT)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 Confidential Videotaped Deposition of</p> <p>11 JAMES MURDICA, held remotely via Zoom,</p> <p>12 before Joan Ferrara, a Registered Merit</p> <p>13 Reporter, Federal Certified Realtime</p> <p>14 Reporter and Notary Public.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 CONFIDENTIAL</p> <p>2 REMOTE APPEARANCES: (Continued)</p> <p>3</p> <p>4 ON BEHALF OF THE AD HOC COMMITTEE OF</p> <p>5 SUPPORTING COUNSEL:</p> <p>6 PAUL HASTINGS</p> <p>7 BY: WILLIAM K. WHITNER, ESQ.</p> <p>8</p> <p>9</p> <p>10 ON BEHALF OF REBECCA LOVE AND OTHER OVARIAN</p> <p>11 CANCER PLAINTIFFS:</p> <p>12 ASHCRAFT & GEREL</p> <p>13 BY: MICHELLE PARFITT, ESQ.</p> <p>14</p> <p>15</p> <p>16 ON BEHALF OF SUE SOMMER-KRESSE, TCC MEMBER:</p> <p>17 MOTLEY RICE LLC</p> <p>18 BY: JOHN BADEN, ESQ.</p> <p>19</p> <p>20</p> <p>21 ON BEHALF OF JOHNSON & JOHNSON and JOHNSON &</p> <p>22 JOHNSON HOLDCO:</p> <p>23 WHITE & CASE LLP</p> <p>24 BY: GREG STARNER, ESQ.</p> <p>25 MATTHEW E. LINDER, ESQ.</p>

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1 J. MURDICA - CONFIDENTIAL
2 Certainly not -- and, you know,
3 as litigation counsel to J&J on some
4 other matters, if we need to confer,
5 we can do that, Mr. Murdica.
6 A I'm talking specifically -- I
7 understood your question, Mr. Winograd, to
8 be about talc settlements pre-bankruptcy.
9 Is that right?
10 **Q Pre-bankruptcy in the tort**
11 **system, has Johnson & Johnson paid out any**
12 **money for cervical or uterine cancer**
13 **claimants?**
14 MR. STARNER: So you're not
15 limited to talc claims, is that what
16 you're saying?
17 MR. WINOGRAD: It is the talc
18 claims, yes.
19 MR. STARNER: Okay. Your
20 question was not limited to talc
21 claims. It sounds like you are
22 limiting it to talc claims.
23 MR. WINOGRAD: So let me try it
24 again.
25

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1 J. MURDICA - CONFIDENTIAL
2 BY MR. WINOGRAD:
3 
16 **Q Do you agree that certain**
17 **gynecological cancers have better -- I'm**
18 **sorry, strike that.**
19 **Do you believe that the analysis**
20 **as to causation with respect to certain**
21 **gynecological cancers is different than**
22 **others?**
23 MR. STARNER: Objection.
24 One, this is a topic we covered
25 in the last deposition.

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1 J. MURDICA - CONFIDENTIAL
2 Number two, now you're getting
3 into clearly information covered by a
4 privilege.
5 He's litigation counsel for J&J.
6 So his, you know, legal assessment or
7 knowledge about, you know, causation
8 analysis for claims, that's -- that,
9 obviously, would be off limits.
10 THE WITNESS: So I'll answer it,
11 though, because I don't want to hear
12 that we stood on any objections.
13 A Mr. Winograd, from what I've
14 seen to date, I don't think any of those
15 claims are meritorious regardless of the
16 subtype.
17 **Q You don't believe any of what**
18 **claims are meritorious?**
19 A I don't think any of the talc
20 claims that you just described, whether it
21 be ovarian, uterine or cervical, I don't
22 think -- based on what I've seen, I don't
23 think any of them have merit.
24 So I don't think any are
25 stronger than the other. I think they're

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1 J. MURDICA - CONFIDENTIAL
2 all meritless.
3 **Q Well, those are two different**
4 **things.**
5 **Do you believe that -- but do**
6 **you believe -- without getting into any**
7 **details for the moment, do you believe that**
8 **the causation is stronger for some than**
9 **others?**
10 MR. STARNER: Again, same
11 instruction. I do believe you are
12 going too far afield here, number one.
13 Number two, subject to that
14 instruction, if generally you want to
15 respond, Mr. Murdica, you can.
16 A Yeah, I don't think any of them
17 have a good causation case or stronger than
18 another. I think they're all -- this is
19 the least meritorious tort I've worked on
20 in my career, as far as I -- you know, from
21 my point of view.
22 **Q With respect to unfiled claims,**
23 **do you know how many unfiled claims there**
24 **are as of right now with respect to talc**
25 **claims?**

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1 **J. MURDICA - CONFIDENTIAL**
2 A Again, we sought that discovery
3 from your committee, Mr. Winograd, and you
4 refused to respond.
5 If you tell me yours, I'll tell
6 you mine.
7 **Q Well, do you know yours, the**
8 **number that -- do you have a number that**
9 **you're aware of, a total number of unfiled**
10 **claims, based on whatever information you**
11 **have?**
12 A I have the same information you
13 have, Mr. Winograd.
14 **Q I'm not asking if you have the**
15 **same information that I have, and I don't**
16 **know that you would know what I know.**
17 A I'd encourage you to respond to
18 discovery or, you know, come join the
19 discussion and we could talk about those
20 things.
21 MR. WINOGRAD: And I'll move to
22 strike as nonresponsive.
23 BY MR. WINOGRAD:
24 **Q Do you know how many unfiled**
25 **claims there are with respect to the talc**

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1 **J. MURDICA - CONFIDENTIAL**
2 **litigation?**
3 MR. STARNER: Objection.
4 A I can't give you a better answer
5 than I just gave you.
6 **Q It's a simple "yes" or "no."**
7 **You either know or you don't.**
8 MR. STARNER: Objection.
9 A Well, what I know, I've gained
10 through conversations with counsel and
11 conversations pursuant to mediation.
12 If you ever want to talk about
13 it or you ever want to answer our discovery
14 and give those answers, I'll give you those
15 answers, too, to the extent that I know
16 them.
17 **Q Do you believe --**
18 MR. RUCKDESCHEL: Objection.
19 This is Ruckdeschel.
20 I object to the nonresponsive
21 and to the continued speeches from the
22 witness.
23 (Simultaneous cross-talk.)
24 MR. STARNER: Hold on. We don't
25 need comments like that. We're here

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1 **J. MURDICA - CONFIDENTIAL**
2 to answer questions and be helpful.
3 So let's just please proceed. We
4 don't need people chipping in with
5 comments like that.
6 **THE WITNESS:** It's a waste of
7 time. And if anybody else is going to
8 speak other than Mr. Winograd, please
9 state your name, please state who you
10 represent and whether or not you
11 intervened, because I'm not going to
12 respond to all you people.
13 **MR. SATTERLEY:** This is Joe
14 Satterley. I represent Mr. Validez
15 and many other people. Mr. Starnes's
16 statement about wasted time is him and
17 the witness.
18 **THE WITNESS:** Have you
19 intervened, Mr. Satterley?
20 **MR. STARNER:** Mr. Murdica,
21 please, that's fine.
22 Look, gentleman, you're only
23 taking up your own time here. Why
24 don't we proceed. We're here to be
25 helpful and answer questions. So

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1 **J. MURDICA - CONFIDENTIAL**
2 let's please proceed.
3 **MR. WINOGRAD:** And I do want to
4 just say, Greg, we are wasting time in
5 part, and I'm not going to dive into
6 whose fault I think that is, but,
7 again, we're not limited to an hour
8 and a half, and we can have that
9 conversation with the Court.
10 **MR. STARNER:** Yeah, we don't
11 agree with that.
12 Please proceed. You're wasting
13 time.
14 BY MR. WINOGRAD:
15 **Q With respect to the unfiled**
16 **claims, Mr. Murdica, do you believe there's**
17 **been a spike recently in unfiled claims?**
18 A What is recent? What do you
19 mean by that?
20 Since you last deposed me,
21 Mr. Winograd?
22 **Q Let's start with this: Since**
23 **the filing of the first petition, do you**
24 **believe there's been a spike in unfiled**
25 **claims?**

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1 **J. MURDICA - CONFIDENTIAL**
2 A Since September -- since
3 October 14, 2021, is that your question?
4 **Q Yes.**
5 A I don't think so.
6 **Q Are you familiar with Majed**
7 **Nachawati?**
8 A Majed Nachawati.
9 **Q Well, M-A-J-E-D, correct?**
10 A Yes.
11 **Q Okay. Are you familiar with**
12 **him?**
13 A I am.
14 **Q And are you aware he was deposed**
15 **on May 24th?**
16 A Yes.
17 **Q Did you listen to that**
18 **deposition?**
19 A I did not.
20 **Q Have you read the transcript?**
21 A In part. I skimmed part of it,
22 but I did not read it.
23 **Q Did you listen to Mr. Kim's**
24 **deposition during the first -- during the**
25 **PI proceeding?**

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1 **J. MURDICA - CONFIDENTIAL**
2 A I can't remember.
3 **Q Will J&J enforce the PSAs to the**
4 **extent a law firm wants to back out of**
5 **them?**
6 MR. STARNER: Objection,
7 assuming it calls for any kind of
8 legal conclusion, number one.
9 Number two, to the extent it
10 calls for disclosing privileged
11 communications.
12 But subject to that, you can
13 answer the question.
14 A Yeah, all I could tell you,
15 Mr. Winograd, is that when your colleagues
16 did what they did to Mr. Robinson, we did
17 not move to enforce it against
18 Mr. Robinson.
19 **Q Do you agree with respect to the**
20 **PSA that it's meant to facilitate coming to**
21 **a plan that plaintiffs' law firms could**
22 **support and recommend to their clients?**
23 A I don't know what you mean by
24 that.
25 **Q Well, do you agree that the PSAs**

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1 **J. MURDICA - CONFIDENTIAL**
2 **are still subject to the parties agreeing**
3 **on a plan -- a full proposed plan?**
4 A I'm really not understanding
5 your question.
6 The plan has been filed. The
7 lawyers representing those claimants
8 support it. So I guess I'm not following
9 what you're asking about a PSA.
10 **Q How do you know that the lawyers**
11 **representing claimants support the plan as**
12 **it was filed?**
13 A Because I speak to them. It's
14 my job.
15 **Q And who have you -- have you**
16 **spoken to Mr. Nachawati on it, about that?**
17 MR. STARNER: I just want to
18 object to this line of questioning.
19 You've now asked a few questions
20 literally verbatim what you asked the
21 first time around, and I can even
22 quote you the lines, if you want to,
23 and this is, again, a topic you've
24 covered before.
25 So I just want to object that.

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1 J. MURDICA - CONFIDENTIAL
2 We're covering old ground.
3 But, please, you can answer.
4 MR. WINOGRAD: Okay. Let me
5 just respond.
6 I find that hard to believe
7 because I'm quoting from a transcript
8 that -- from a deposition that just
9 took place about six days ago.
10 MR. STARNER: I thought you were
11 quoting from your prior questions in
12 the prior deposition because that
13 would be more accurate. I can quote
14 those lines --
15 MR. WINOGRAD: That's why I
16 discussed Mr. Majed and his
17 deposition.
18 A Well, the answer is yes. The
19 answer is yes.
20 **Q And when -- in speaking with**
21 **Mr. Nachawati, did he say that all of his**
22 **claimants would support the plan as filed?**
23 A Well, I think you've heard his
24 testimony and, you know, what the ad hoc
25 has represented, and you deposed Mr. Watts

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1 J. MURDICA - CONFIDENTIAL
2 Mr. Thompson.
3 BY MR. THOMPSON:

4 [REDACTED]

Age Group	Percentage of Respondents
18-29	90%
30-39	85%
40-49	80%
50-59	75%
60 and older	60%

25 Q I understand. And I appreciate

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1 J. MURDICA - CONFIDENTIAL
2 it's not in front of you.
3 And you were involved in
4 settling most, if not all, of those cases,
5 is that right?

6 A That's correct.

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q And you were involved in those
13 settlements as well, weren't you?

14 A Yes.

15 Q Okay. And to the extent that
16 Johnson & Johnson settled any talc cases in
17 the tort system prior to October 2021, you
18 would be familiar with that, whether for
19 ovarian cancer or mesothelioma, fair?

20 A There may be a few exceptions
21 from before the beginning of 2020, but yes.

22 Q Okay. Did you -- are you aware
23 of an instance where Johnson & Johnson
24 settled a talc case for someone with a
25 gynecologic cancer that was not ovarian

1 J. MURDICA - CONFIDENTIAL
2 cancer?

3 A So I think I was asked this
4 question, Mr. Thompson, by Mr. Winograd.

5 And what I said was, I don't
6 believe we did, or at least not
7 intentionally, based on the settlements
8 that occurred prior to filing.

9 Q And so, to your knowledge,
10 Johnson & Johnson did not ever settle a
11 lawsuit brought by someone alleging that
12 talc caused their disease for a plaintiff
13 that didn't have either ovarian cancer or
14 mesothelioma --

15 MR. STARNER: Objection.

16 BY MR. THOMPSON:

17 Q -- right?

18 A Well, Mr. Thompson, I'll tell
19 you what I told Mr. Winograd.

20 The claims that -- or cases and
21 claims that we settled pre-filing were for,
22 you know, specific reasons with specific
23 counsel, and I don't believe encompassed
24 any of those.

25 However, thousands of

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1 J. MURDICA - CONFIDENTIAL

2 non-ovarian -- we'll call them "non-ovarian
3 gynecologic cancers" were on file at the
4 time and have been asserted and continue to
5 be asserted against the company.

6 Q I understand that.

7 But what I'm getting at is the
8 company never resolved, never compensated
9 anyone at arm's length for a disease that
10 was a gynecologic cancer that was not
11 ovarian cancer, right?

12 MR. STARNER: Objection.

13 A I don't think I can do better
14 than I just told you. Whether -- you know,
15 I don't believe that the company did. If
16 they did, it would have been unintentional.

17 But that doesn't change the fact
18 that there were thousands filed against the
19 company and people wouldn't just dismiss
20 them. They're not going away, they haven't
21 gone away and they wouldn't go away before.
22 They're real claims we have to face.

23 Q Did Johnson & Johnson settle
24 talc claims for mesothelioma -- did J&J
25 settle talc claims brought by mesothelioma